

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ASAMARBUNKERS CONSULTADORIA E
PARICIPACOES UNIPessoal LDA
PLAINTIFF

V.

M/V NEW RIVER, its engines, tackle
and apparel,

The Bunkers Aboard the
M/V NEW RIVER,

And Those in Interest Therein,

Defendants *in rem*,

CIVIL NO. 1:10-CV-00223-RC

AHL SHIPPING COMPANY,
DEFENDANT, *in personam*,

AND

The Master of the M/V NEW RIVER,
Moran Gulf Shipping Agencies, Inc.
2901 Turtle Creek Drive, Suite 330
Port Arthur, TX 77642
Garnishees

MOTION TO INTERVENE ON BEHALF OF MASTERS, MATES AND PILOTS
INDIVIDUAL RETIREMENT ACCOUNT PLAN AND
MASTERS, MATES AND PILOTS VACATION PLAN

NOW INTO COURT through undersigned counsel comes, intervening Plaintiff, Captain Timothy A. Brown, as Chairman of the Board of Trustees of the Masters, Mates and Pilots Individual Retirement Account Plan and the Masters, Mates and Pilots Vacation Plan (referred to herein as the "Plans"), (hereinafter "Trustee") who respectfully moves this court to for leave to intervene as Plaintiffs pursuant to Federal Rule of Civil Procedure 24(a) and Local Admiralty

Rule (e)(11)(a). The Trustee on behalf of the Plans and on behalf of the crew members of the M/V New River requests permission of this Court to intervene to assert claims for unpaid crew wages and benefits as a result of the employment of members of the International Organization of Master, Mates and Pilots by Defendant AHL Shipping Company to serve as crew members on the M/V New River. This matter is currently pending before the Court and the M/V New River has been arrested by the U.S. Marshal and is currently within the jurisdiction of this Court. Intervening Plaintiff also seeks to assert *in personam* claims against AHL Shipping Company.

Pursuant to Federal Rule of Civil Procedure 24 (a)(2) intervention of right should be granted if the application is timely filed, the applicant claims an interest which is the subject of the action and the applicant is so situated that disposition will impair or impede the applicants ability to protect its interest and the applicants interests are not adequately protected by existing parties.

Intervener Trustee and the Plans assert that they had a contract in various collective bargaining agreements with defendant AHL Shipping. Those contracts required payment of crew wages, vacation benefits and individual retirement account benefits to be paid to the plans and the trustee on behalf of the individual crew members. The motion presented is timely in as much as a notice of arrest has been published in the Beaumont Enterprise and a 30 day period for parties to intervene to assert lien claims against this vessel has not yet expired. This case is nearly at its beginning, the vessel is currently in the custody of the substitute custodian, and this intervention will not cause any delay or prejudice the rights of any of the existing parties.

Intervening Plaintiff, Trustee and the Plans assert that they have a preferred maritime lien for payment of crew wages and benefits against the M/V New River which is the subject of the ongoing action. Intervening Trustee and the Plans are contractually obligated to assert these

claims on behalf of the crew members and failure to collect these crew wages will result in a direct and substantial prejudice to each individual crew member who served on board the M/V New River.

Intervening Plaintiff also claims that this preferred maritime lien for seaman's wages and benefits will be impaired if they are not allowed to intervene and assert their interest in this action as no other parties presently in the case have a preferred maritime lien for crew wages and benefits such as can be asserted by intervening plaintiffs herein.

CONCLUSION

For all of the foregoing and as more fully outlined in the attached verified intervening complaint for crew wages and benefits and arrest the vessel and or claim of lien against the M/V New River, Intervening Plaintiff Captain Timothy A. Brown, as Chairman of the Board of Trustees of the Masters, Mates, and Pilots Individual Retirement Account Plan and the Masters, Mates and Pilots Vacation Plan respectfully request this Court grant this Motion to Intervene.

Respectfully Submitted:

BY: /s/ Michael A. Colomb
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CERTIFICATE OF CONFERENCE

I hereby certify that on or about June 1, 2010, I conferred with all counsel regarding the filing of this Motion to Intervene and further certify that it is unopposed.

/s/ Michael A. Colomb
Michael A. Colomb

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of June 2010, a copy of the foregoing instrument has been forwarded to all counsel of record in accordance with the Court's ECF Rules.

/s/ Michael A. Colomb
Michael A. Colomb